

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**HONG M. NGUYEN,**

Plaintiff,

v.

**PITTSBURGH TRANSPORTATION  
GROUP,**

Defendant.

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2:21cv63

**Electronic Filing**

**MEMORANDUM ORDER**

March 11, 2021

Plaintiff, Hong M. Nguyen (“Plaintiff”) initiated the instant lawsuit by filing a motion for leave to proceed *in forma pauperis* (“IFP”), with his complaint attached, on January 14, 2021. (ECF No. 1). This Court granted leave to proceed IFP (ECF No. 2) on January 26, 2021, and the Complaint was filed by the Clerk. (ECF No. 3). The case was referred to United States Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1) and Local Rules 72.C and 72.D

Because Plaintiff alleges in his Complaint that both he and the Defendant are citizens of the same state, the Court raised the issue of subject-matter jurisdiction pursuant to 28 U.S.C. § 1331 *sua sponte*. Since the enactment of Section 1332, complete diversity of citizenship has been required—i.e., plaintiff and any defendant must be citizens of different states. *Carden v. Arkoma Associates*, 494 U.S. 185, 187 (1990).

On January 28, 2021, the Magistrate Judge filed a Report and Recommendation (ECF No. 4) which recommended that Plaintiff’s complaint be dismissed for lack of subject matter jurisdiction, without prejudice to Plaintiff refiling his claims in state court. The Plaintiff was informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local

Rule 72.D.2, that he had until February 16, 2021 to file objections to the Report and Recommendation. No objections were filed.

After review of the pleadings and relevant documents in the case, together with the Report and Recommendation, the following Order is entered.

AND NOW, this 11<sup>th</sup> day of March, 2021,

IT IS HEREBY ORDERED that Plaintiff's complaint is **DISMISSED** for lack of subject matter jurisdiction, without prejudice to Plaintiff refiling his claims in state court. The Clerk shall mark this case closed.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 4) dated January 28, 2021, is adopted as the Opinion of the Court.

S/ David Stewart Cercone  
David Stewart Cercone  
Senior United States District Judge

cc: Hong M. Nguyen  
922 Sleepyhollow Road  
Pittsburgh, PA 15234

(Via First Class Mail)

Defendant. )  
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**ORDER OF COURT**

s/ DAVID STEWART CERCONI  
David Stewart Cercone  
Senior United States District Judge

cc:

*(Via CM/ECF Electronic Mail)*